## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF VIRGINIA ROANOKE DIVISION

WACHOVIA BANK, N.A.,	)	
Plaintiff,	)	
	)	Case No. 7:04cv00174
<b>v.</b>	)	
	)	MEMORANDUM OPINION
J. MICHAEL RANSON,	)	
KENNETH L. TYLER	)	
RANSON CHEVROLET-OLDSMOBILE, INC.	)	
RANSON TYLER CHEVROLET, LLC	)	By: Samuel G. Wilson
	)	<b>United States District Judge</b>
<b>Defendants, Counter-Plaintiffs</b>	)	
and Third-Party Plaintiffs	)	
	)	
<b>v.</b>	)	
	)	
DATASCAN TECHNOLOGIES, LLC	)	
and JACK SCHMIDT,	)	
	)	
Third-Party Defendants	)	

This is diversity action filed by Wachovia Bank ("Wachovia") pursuant to 28 U.S.C. § 1332, for breach of a series of contracts between Wachovia and the defendants. Wachovia asserts that it is a national banking association with its principal place of business in North Carolina. Defendant J. Michael Ranson is a resident of West Virginia, Kenneth Tyler is a resident of South Carolina, Ranson Chevrolet-Oldsmobile, Inc. ("RCO") is incorporated in West Virginia with its principal place of business in Virginia, and Ranson-Tyler Chevrolet, LLC ("RTC") is a West Virginia LLC with its principal place of business in Virginia.

After conferring with counsel, the court concludes that it lacks subject matter jurisdiction in this action. In Wachovia Bank, N.A. v. Schmidt, the Fourth Circuit held that a national banking association

is located, for purposes of diversity, not only in the state in which it operates its principal place of business but also in the states in which it operates branch offices. 388 F.3d 414, 417 (4th Cir. 2004). Wachovia operates branch offices in Virginia, and is therefore considered a resident of Virginia for diversity purposes. Because complete diversity is lacking, this court is without jurisdiction to hear the parties' claims. RCO, as third-party plaintiff, has moved for a voluntary dismissal of its claim against Datascan and Schmidt pursuant to Rule 41 and the court will enter an appropriate order.

<b>ENTER</b> : This day of February, 2005.	
	UNITED STATES DISTRICT JUDGE

<sup>&</sup>lt;sup>1</sup>Wachovia agrees that the case is subject to dismissal pursuant to Fourth Circuit precedent. It does not concede the correctness of that precedent.

## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF VIRGINIA ROANOKE DIVISION

WACHOVIA BANK, N.A.,	)	
Plaintiff,	)	
	)	Case No. 7:04cv00174
<b>v.</b>	)	
	)	FINAL ORDER
J. MICHAEL RANSON,	)	
KENNETH L. TYLER	)	
RANSON CHEVROLET-OLDSMOBILE, INC.	)	
RANSON TYLER CHEVROLET, LLC	)	By: Samuel G. Wilson
	)	<b>United States District Judge</b>
<b>Defendants, Counter-Plaintiffs</b>	)	
and Third-Party Plaintiffs	)	
	)	
v.	)	
	)	
DATASCAN TECHNOLOGIES, LLC	)	
and JACK SCHMIDT,	)	
	)	
Third-Party Defendants	)	

In accordance with the memorandum opinion entered on this day, it is hereby **ORDERED** and **ADJUDGED** that plaintiff's claim and defendants' counterclaims are **DISMISSED** for lack of subject matter jurisdiction. It is further **ORDERED** and **ADJUDGED** that RCO's Rule 41 motion for dismissal of its third-party claim is **GRANTED** and that claim is **DISMISSED** without prejudice.

**ENTER**: This \_\_\_\_\_ day of February, 2005.

## UNITED STATES DISTRICT JUDGE